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The Future of the Parliamentary Process in New Brunswick after the 1987 Election

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DATE: 15 February 1988

"Liberals 58 PCs 0": So read the bold headline atop the front page of the Saint John Telegraph Journal the morning of Wednesday, October 14, 1987. The previous day the voters of New Brunswick had brought the seventeen year rule of Richard Hatfield's Progressive Conservative (PC) government to an abrupt end. The landslide was the most one-sided electoral victory in Canadian history, with the number of seats won surpassing the previous record held by the Prince Edward Island Liberals. In that 1935 contest, the Liberals won all thirty seats. These two instances are the only times in Canadian history that a Canadian legislature has lacked any formal elected opposition.

On election night Richard Hatfield accepted "full responsiblity" for the defeat of his party.(1) This is a reasonable assessment. The long-time premier's personal unpopularity with the voters was considerable and the party was unable to shake it. It is otherwise difficult to explain the loss by Mr. Hatfield of his own riding. It was both this negative sentiment of the voters towards Mr. Hatfield and a general desire for change from an old government which combined to unseat every member of the governing party. The purge spared neither experienced members of cabinet nor younger PC members who had tried to distance themselves from their leader.

The purpose of this paper, however, is not to examine in depth the reasons for the complete rout of the PCs in New Brunswick. Rather, it is intended to set out here what the impact of this electoral shut-out will be on the parliamentary process in New

Brunswick. Beyond that, it will be suggested what measures might realistically be taken by the new government to adequately preserve the integrity of parliament and thus serve the interests of the people of the province.

Since the election of last October, there has been some discussion in the press and in legislative circles particularly about how Mr. McKenna, the new premier, should best address the "problem" of there being no formally elected opposition in the New Brunswick assembly. A cynic might say, "What problem is there? The opposition doesn't really make a difference, anyway. Most of the time they just take the opposite position of the government, which can still push through what it wants. Critical elements outside the legislature can oppose on selective issues just as well and would probably be more objective when doing it!"

Such an outlook as this belies a fundamental misunderstanding of the institution of parliament and the role of formal opposition in an assembly. Instead of dismissing the above view out of hand, however, let us first examine seriously the sources of opposition other than an in-assembly opposition party in our democratic setting, and in New Brunswick specifically.

Even within the legislature there will still be differences of opinion on various matters. Each individual member of the assembly brings with him his own agenda and priorities. Without the presence of a competitive opposition, private members may feel freer to

openly express dissent on issues without risk of being charged with disloyalty and giving "the other side" ammunition. Regional interests may be more vigorously pursued by members.

If this does indeed happen it is to the credit of the Liberal Party and its leadership, which might have to put the needs of a healthy democracy ahead of pure self-interest. To some extent this is what happened in Charlottetown after the 1935 PEI election.(1) There will probably remain, nevertheless, a line beyond which Liberal backbenchers would be loathe to cross if they intend to remain in the party. Since they will certainly not be encouraged to embarass the government, there are certain limits on their freedom of action. Therefore while legislative opposition will without doubt still exist in caucus and may at times even express itself on the chamber floor, its effectiveness and credibility can be legitimately called into question.

What then of opposition outside the legislature? Cannot those media hounds be counted on to dig up dirt at the slightest hint of scandal or inappropriate behaviour? Well, yes and no. The media will likely make itself out to be some sort of "Official Opposition", reminiscent of the approach of some Alberta newspapers in the not too distant past. There are several reasons, however, why this may not be especially effective.

Firstly, media personnel lack the parliamentary experience required to function as an opposition. Despite experience in

covering a legislature, many members of the media may have little appreciation for, let alone understanding of, the parliamentary process. They are often not familiar with the ins and outs of the assembly. Thus they are clearly handicapped when confronting the relative monopoly of information held by the government. They do not have the expertise that opposition members, especially those who have sat on the Treasury Benches, could apply. The media would have fewer contacts in the civil service and would not know as well how to use them.

The media may feel that in spite of the above limitations they may be able to act adequately as a check on the government by increasing the size of their legislature bureaus. Time will tell if they are able to compensate for their disadvantaged position in this way, but there are other reasons why they cannot perform the role of opposition sufficiently.

One main reason in because of the nature of their trade. Bad news sells better than good news. Sensationalism is a marketable quantity. There is shallow reporting, but not necessarily because of the abilities of the reporters. Rather, it is the consuming public which demands that complex issues be distilled into simple one paragraph or even one sentence summations.

While formal legislative opposition may at times be justifiably accused of not rising above this level either, it usually endeavours to provide an alternative to the government program. This is the

ultimate threat, the threat of replacement, which causes a government to be vulnerable to opposition attacks.(3) The media does not aspire to office, nor does it often constructively advocate an alternate course of action. It therefore can never adequately replace this aspect of the "Official Opposition."

There is yet another significant limiting factor in the media's attempt to act as opposition. This is the whole matter of conflict of interest. The media is not immune to this popular malady any less so than are politicians. In New Brunswick, for example, the Irving Group conglomerate "dominates 90% of English-language newspaper circulation."(4) The Irving family also owns the CBC English-language television affiliate in Saint John, which rebroadcasts to most of the province. This family, headed by industrialist K.C. Irving, also controls pulp and paper and oil refining enterprises.(5)

Now who is to say when the media might be speaking from a conflict of interest? The press might willingly point the finger at the government, but how can the government point back. It is inappropriate for the government to speak out against the press in the assembly. In any case, how can the media be expected to accurately represent attacks against itself? This all points again to the major weakness of the "media as opposition" position. The media do not have seats on the floor of the chamber. As a result the dynamics of direct debate are lost. There is no forum for the productive interchange of ideas.

Beyond the media then, what other sources of opposition are there outside the legislature? Various special interest groups exist which will make their positions known as issues arise which affect them. The business community, labour movement, and all sorts of lobbyists will continue to do their thing. The Progressive Conservative and New Democratic parties, though excluded from the legislature, are in a similar situation. They all can organize demonstrations, letter writing campaigns, appear before legislative committees if invited, take out newspaper advertisements, meet with cabinet ministers and civil servants as appropriate, etc.

All of the above forms of opposition outside the legislature, including that of the media, currently exist in all provinces. They are part of the normal decision making process. In New Brunswick they will now naturally be more prominent. They are all, however, haunted by the same question which was alluded to in discussing the role of the media as opposition. That is: To whom are these opposition groups accountable?

This query makes clear what is at stake in this discussion. In our democratic political system it is ultimately the voters which impart legitimacy. All opposition outside the assembly lacks responsibility to the electorate for its actions. No mandate has been given to these outside groups. This must be considered an unhealthy and perhaps even dangerous scenario for the health of democracy.

A traditional in-house opposition "is the most potent open parliamentary check on the equity, integrity, honesty and frugality of the Government."(6) The opposition is needed to insure the accountability of the government to parliament, which represents the people. Stanley Knowles has summarized that the opposition exists to serve as a check on government actions, as a prod to push and persuade the government to act in a certain manner, and as a threat to replace the government.(7) No other form of opposition can fill the shoes of a traditional opposition party.

What then should the current Government of New Brunswick do to adapt the legislative process to the unusual and even awkward circumstances it finds itself in? Something ought to be done, owing to the inadequacies documented above with external opposition. Whatever is done should further the integrity of the legislative assembly. As much as is possible greater regard for the political process should be fostered among the electorate.

This should be done in a way which shows respect for the sovereignty of the voters. As Mr. McKenna rightly said shortly after his party's victory, "I refuse to feel guilty about our victory. The fact is we did our job and the people of New Brunswick passed a judgement."(8) There are several changes, however, which could be made in the legislative process to develop a meaningful role for private members, focus attention on the assembly, and thereby earn the respect of the public.

Before going into the details of that plan, however, this writer would just like to make clear that if Mr. McKenna wanted to address the root cause of this "problem", he should reform the first-past-the-post plurality electoral system which with the Canadian electorate is burdened. He could do this by creating a legislative council with seats being assigned to parties on the basis of their popular vote. Since the Liberals got 32%, the PCs 28%, and the NDP 10%, in a twenty seat second chamber, for example, the Liberals would select twelve members, the PCs six, and the NDP two.

Voters' sovereignty would be upheld, since representation would be based on electoral performance. The chamber could expire when the writs are next dropped and only be revived if the electorate approves its further existence in a plebiscite at the same time as the general election. This would correct the natural distortion in our system while legitimately giving the opposition parties the voice in the legislature they want so badly. This scenario will not occur, however, since this kind of representation is alien to the Canadian political culture, although it is commonplace in European democracies.

As has been mentioned earlier in this study, the mere absence of an opposition party may prompt private government members to be bolder than they would otherwise be in speaking out for personal and/or constituent concerns. This should be accomodated in house

procedure so that it can be a constructive exercise. One way to do this would be to allow more time for the debate of private members' bills. Even more importantly, provisions should be made similar to recent changes in the House of Commons which require some private members' bills to come to a vote.

These votes should, since they are not government bills, be free votes. Additionally, party discipline should be loosened by making as many government bills as possible free votes. Thus the stature of the assembly as the prime decision making body in the province will be enhanced. The quality of debate should also be better, since members will be trying to convince their colleagues of the appropriateness of a certain action. The members themselves will feel that they are of value to the process, and constituents will be pleased to have active members, even on the backbench.

Another way that this can be accomplished is by letting legislative committees do quality work. The government should not fear amendments by a committee, even if these are relatively substantive. The motivation is unlikely to be hostile. Committees should feel free to call a variety of outside witnesses to testify. A committee should not shy away from public hearings outside of Fredericton if this is justifiable.

These reforms may well mean that committees will need increased funding, but the special post-election circumstances warrant it. As a result, committee reports will likely be of a high quality and

therefore useful to ministers who are trying to get control of departments run by PCs for the last seventeen years. Also, rookie legislators can get valuable experience through intense committee work.

Another way in which private members can be kept busy, and so out of mischief, is through the use of paliamentary (or in this case legislative) secretaryships. By assigning some members to assist ministers who have especially sizable portfolios, the cabinet can be supported and, again, new members can get on hands experience by working with departments. Private members who become legislative secretaries still ought to be allowed to ask questions in question period, but only of ministers other than their own. This is the current practise in Saskatchewan, based on a ruling handed down last August by Speaker Tusa.(9)

There is yet another change the new government can make in the legislative assembly budget to augment its own accountability to both the house and the public. This is by increasing the funding to the legislative library research branch and by opening up use of this service, with some guidelines, to the public at large. More complete information will mean better policy debate and discussion, both inside and outside the assembly.

The new government can minimize the accusations of arrogance which will eventually come their way by not attempting to rush things through the assembly. If they allow for due process at every

step of the way the end product should be an administration which appears sensitive and responsive to the will of the public. Pride should be swallowed when necessary, and the government should never be afraid to revise a piece of legislation when such is clearly needed. This would be something like the approach taken by the Alberta government in introducing a new school act and labour code last spring and giving all interested parties a year to respond before coming back with the final versions of the bills.

The legislative assembly of New Brunswick is facing a challenging but exciting time. The government has an opportunity to make reforms in the legislative process which can enhance the self-esteem and worth of individual members. Through this and the other changes mentioned, the way in which the people of New Brunswick view the institutions which govern them can be altered for the better. If the government shows greater respect for the representatives of the people, the people will develop greater respect for the system. This is definitely needed in our cynical age in which so many people feel alienated from government. It is too good a chance to pass up. If Mr. McKenna and his party act along these lines, in four years time the citizens of New Brunswick will not regret having given the Liberals a shut-out.

ENDNOTES

(1)Bruce Peters, "Liberals End Conservative Dynasty," The Telegraph-Journal (Saint John), Dec. 31, 1987, p. 8.

(2)Wayne E. MacKinnon, The Life of the Party (Charlottetown: Prince Edward Island Liberal Party, 1973), pp. 102-103.

(3)Stanley H. Knowles, The Role of the Opposition in Parliament (Toronto: Ontario Woodsworth Memorial Foundation, 1957), pp. 10-11.

(4)Peter S. Anderson, "Irving Group," The Canadian Encyclopedia (Edmonton: Hurtig Publishers, 1985), p. 905.

(5)Mary Halloran, "Irving, Kenneth Colin," The Canadian Encyclopedia (Edmonton: Hurtig Publishers, 1985), p. 905.

(6)Thomas A. Hockin, "The Roles of the Loyal Opposition in Britain's House of Commons: Three Historical Paradigms," Parliamentary Affairs, Winter 1971-72, p. 64.

(7)Stanley H. Knowles, The Role of the Opposition in Parliament (Toronto: Ontario Woodsworth Memorial Foundation, 1957), pp. 8-11.

(8)"McKenna tackles 'problem' of lack of opposition," Winnipeg Free Press (Winnipeg), Oct. 15, 1987, p. 60.

(9)Arnold Tusa, "Speaker's Ruling," Canadian Parliamentary Review, Autumn 1987, pp. 28-29.

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